

File With \_\_\_\_\_

## SECTION 131 FORM

Appeal NO: ABP -313947-22

Defer Re O/H

TO: SEO

Having considered the contents of the submission ~~dated~~ received 27/07/2022  
fromApplicant I recommend that section 131 of the Planning and Development Act, 2000is not be invoked at this stage for the following reason(s): no new material  
issues raisedE.O.: Dishu KellyDate: 16/08/2021

To EO: \_\_\_\_\_

Section 131 not to be invoked at this stage. ☐Section 131 to be invoked – allow 2/4 weeks for reply. ☐

S.E.O.: \_\_\_\_\_

Date: \_\_\_\_\_

S.A.O.: \_\_\_\_\_

Date: \_\_\_\_\_

M \_\_\_\_\_

Please prepare BP \_\_\_\_\_ - Section 131 notice enclosing a copy of the attached  
submission

to: \_\_\_\_\_ Task No: \_\_\_\_\_

Allow 2/3/4 weeks – BP \_\_\_\_\_

EO: \_\_\_\_\_

Date: \_\_\_\_\_

AA: \_\_\_\_\_

Date: \_\_\_\_\_

**Mary Tucker**

---

**From:** Michael O'Sullivan <michaelosullivan@sla-pdc.com>  
**Sent:** Wednesday 27 July 2022 17:08  
**To:** Appeals2  
**Cc:** SLA Dublin Central; Bord  
**Subject:** Response to ABP-313947-22  
**Attachments:** 20035 CL DC S5 P Response to 3P Appeal Final 27072022.pdf; 20035 DCP S5\_1P Response to 3P Appeals\_Final 2707072022.pdf

Dear Sir / Madam,

We refer to your letter dated 30 June 2022 in respect of appeal reference ABP-313947-22, inviting a written response from the First Party by 27 July 2022.

We have been instructed by our Client (the First Party), Dublin Central GP Limited, Riverside One, Sir John Rogerson's Quay, Docklands, Dublin 2, D02 X576, to make this formal written submission in response to the Third Party Appeal.

Please find attached the Applicant's Response Report and Cover Letter to the Third Party Appeal, prepared by Stephen Little & Associates, Chartered Town Planners & Development Consultants.

We trust this is in order, and would be grateful for acknowledgement of receipt of this email and submission on file.

All future correspondence relating to this appeal should be addressed to this office.

Regards,

Michael O'Sullivan,  
Senior Planner  
**STEPHEN LITTLE & ASSOCIATES**  
Chartered Town Planners & Development Consultants  
26/27 Upper Pembroke Street,  
Dublin 2 D02 X361

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*The SLA team have embraced hybrid working and continue to engage with our clients and colleagues in the industry through this new arrangement.*

*We value our team and are seeking to maintain / improve an appropriate Work / Life balance. As such, whilst it may suit us to respond on occasion, please do not anticipate a response to your email outside of normal working hours as the norm.*

*To ensure the most efficient use of resources, attendance at meetings will continue using various digital formats, including Microsoft Teams and Zoom.*

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The Secretary,  
An Bord Pleanála,  
64 Marlborough Street,  
Dublin 1

Our Ref. 20035

27 July 2022

**RE: FIRST PARTY RESPONSE TO THIRD PARTY APPEAL**

**PLANNING APPLICATION FOR THE PROVISION OF A MIXED-USE SCHEME IN A SINGLE BUILDING RANGING FROM 2 – 6 STOREYS OVER SINGLE STOREY BASEMENT COMPRISING OFFICE SPACE (C. 5,753 SQ.M), 3NO. CAFES / RESTAURNATS, DELIVERY HUB AND A NEW PUBLIC PLAZA, GENERALLY BOUND BY HENRY STREET TO THE SOUTH, MOORE STREET TO THE WEST AND HENRY PLACE TO THE NORTH AND EAST (DUBLIN CENTRAL – SITE 5)**

**AN BORD PLEANÁLA REF: ABP-313947-22**

**DUBLIN CITY COUNCIL REG. REF: 2863/21**

Dear Sir / Madam,

We, Stephen Little & Associates Chartered Town Planners & Development Consultants, 26 / 27 Upper Pembroke Street, Dublin 2, D02 X361 are instructed by our Client (the Applicant), Dublin Central GP Limited, Riverside One, Sir John Rogerson's Quay, Docklands, Dublin 2, D02 X576 to submit this First Party Response to Third Party Appeal by Stephen Troy, Troy Family Butchers Ltd., Moore Street, Dublin 1.

We trust the Board will have regard to this response to the Third Party Appeals when assessing the proposed development.

We confirm that we act for the Applicant in this instance and would ask that all future correspondence in this matter be directed to this office.

We would be grateful for written acknowledgement of this submission at your earliest convenience.

Yours faithfully,

Michael O'Sullivan,  
Senior Planner  
**STEPHEN LITTLE & ASSOCIATES**

## Planning Report

## Applicant's Response to Third Party Appeals

## Dublin Central – Site 5

For Development  
Comprising Office,  
Restaurant / Café, and  
All Associated &  
Ancillary  
Development.

At Nos. 22 – 25 Moore  
Street and Nos. 13 –  
14 Moore Lane, Dublin  
1

For Dublin Central GP  
Limited

**JULY 2022**

Document Control: -

Author	Checked by	Purpose	Date
NO'C	MO'S	Draft	18.07.2022
NO'C	MO'S	Final Draft	26.07.2022
NO'C	<i>Michael O'Sullivan</i>	Final	27.07.2022

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## 1 INTRODUCTION

We, Stephen Little & Associates Chartered Town Planners & Development Consultants, 26 / 27 Upper Pembroke Street, Dublin 2, D02 X361 submit this First Party Response to Third Party Appeals to An Bord Pleanála. It is made on behalf of the Applicant, Dublin Central GP Limited, Riverside One, Sir John Rogerson's Quay, Docklands, Dublin 2, D02 X576.

The content of this Report responds to a letter from An Bord Pleanála, dated 30 June 2022, inviting the Applicant to make a submission / observation in writing to the Board in relation to the third party appeal by Stephen Troy, Troy Family Butchers Ltd., Moore Street, Dublin 1.

We refer the Board to Section 5 of this Report where the relevant planning issues raised in these appeals are grouped together in planning themes and the Applicant's response provided.

The strategic importance of the application site and this development for Dublin City in general cannot be overemphasised. The Applicant acknowledges that undertaking regeneration projects of significant scale within dense urban settings are complex and challenging with a broad array of considerations and constraints to be dealt with. However, it remains steadfast in the belief that the proposed development (Dublin Central Site 5) in conjunction with the wider vision of the Dublin Central Masterplan will see the sensitive, innovative and transformative rejuvenation of this area. The development area has been in critical need of regeneration for almost 26 years, first highlighted in the preparation of the O'Connell Street Integrated Area Plan in 1997.

Planning applications were made concurrently to Dublin City Council (DCC) for: -

- Site 5 (DCC Reg. Ref. 2863/21) – subject of this Third Party Appeal (and A First Party Appeal under ABP Ref. ABP-313947-22 – explained below),
- Site 3 (DCC Reg. Ref. 2861/21) – Currently subject to First and Third Party Appeals to An Board Pleanála (ABP Ref. ABP-312603-22),
- Site 4 (DCC Reg. Ref. 2862/21) – Currently subject to First and Third Party Appeals to An Board Pleanála (ABP Ref. ABP-312642-22).

A Masterplan for the entire Dublin Central site was prepared to provide the Planning Authority, prescribed bodies and the general public with a clear indication of the wider proposals for the area. The Masterplan is underpinned by the Dublin Central Masterplan Area Conservation Management Plan, prepared by Molloy & Associates Conservation Architects. As such, while separate planning applications have been made for individual sites within the Masterplan area, there is an obvious relationship between the sites.

DCC issued a notification of its decision to Grant Permission for the Site 5 proposal, on 23 June 2022, subject to 26no. conditions.

The Applicant submitted a First Party Appeal to the Board, on 20 July 2022, in respect only of Condition 5, which limits the duration of permission to 7 years (rather than 15 years sought). The Applicant has otherwise warmly welcomed the decision of the Planning Authority to grant permission, which it considers is informed by reasonable planning judgement. The Applicant has submitted a First Party Appeal in relation to the duration of permission for Site 3 (DCC Reg. Ref. 2861/21 – ABP Ref. ABP-312603-22) and Site 4 (DCC Reg. Ref. 2862/21 – ABP Ref. ABP-312642-22) also to ensure that the anticipated construction programme for this significant city centre regeneration is adequately reflected in the duration of permission granted.

We respectfully submit that it is evident from the Planning Officer's Report that the issues raised in the Third Parties' submissions at application and further information stages (now appeals) were carefully considered, and that the Planning Authority has had due regard to these issues in making its decision. We do not consider that any new issues are now raised in the Third Party appeals which have not been appropriately assessed by DCC or which would merit a reversal of its decision by the Board.

We would respectfully request that the Board upholds the decision of Dublin City Council to grant permission for the Site 5 development, with a duration of 15 years, in order to allow this strategically important development to proceed.

The Board will have access to the public planning file in this case. To avoid duplication, this Appeal Response Planning Report cross references to the relevant material already provided in the planning application file where necessary and appropriate, rather than repeating it.

Detailed background information relating to the proposed development and relevant to this Third Party Appeal Response, including site and development descriptions and planning policy context, is provided in the Planning Application Report submitted to Dublin City Council at application stage on the 1 June 2021 and as amended by Further Information on the 19 October 2022.

Details of the in-depth pre-planning consultation with Dublin City Council, in respect of the Dublin Central project and Site 5 proposal, are summarised in Section 5 of the SLA Planning Report submitted with the application, and in Section 4 of our Further Information Planning Report.



## 2 SUMMARY OF RELEVANT BACKGROUND INFORMATION

For the convenience of the Board, this Section provides a brief summary of the relevant background information that sets the context for the Applicant's response to the Third Party Appeals in this case. The Board will also have regard to the Council Planner's Report for further context. Where particularly pertinent to the issue being discussed, we quote extracts from the Planner's Report, but otherwise trust that the Board will have full regard to the Council's planning assessment of the proposed development.

We trust that the Board will also have full regard to the entire and extensive suite of material lodged with the initial planning application for Site 5, including the Environmental Impact Assessment Report (EIAR) and also the material lodged with the response to the Request for Further Information, including the Addendum to the EIAR. Whilst it is acknowledged that there is significant volumes of material in those submissions, it is not considered helpful to re-state much of that for a further time as we are very aware of the fact An Bord Pleanála will be considering this application in its entirety *de novo* and as a result will be reviewing all of this material in any event.

### 2.1 Site Location & Context

Site 5 measures c. 0.16 Ha (net site area). When additional works to provide a foul drainage line from O'Rahilly Parade to connect to the existing network on Parnell Street via Moore Street are included the gross site area is 0.18 Ha. It is generally bounded by Moore Street to the west, Moore Lane to the east, O'Rahilly Parade to the north and No. 21 Moore Street and No. 12 Moore Lane. Site 5 includes the following existing properties: -

- Nos. 22 – 23 Moore Street.
- Nos. 24 – 25 Moore Street.
- No. 13 Moore Lane, No. 14 Moore Lane (otherwise known as Nos. 1 – 3 O'Rahilly Parade and Nos. 14 – 15 Moore Lane or Nos. 1 – 8 O'Rahilly Parade and Nos. 14 – 15 Moore Lane).

This includes the site of the present Dublin City Council Depot. None of the existing buildings at Site 5 are 'Protected Structures', listed in the Record of Protected Structures contained in the Dublin City Development Plan or are proposed for addition to that record. The site does not lie within the O'Connell Street & Environs Architectural Conservation Area (ACA).

Site 5 is currently occupied by existing buildings which vary from two to three storeys generally. Existing uses include retail and ancillary retail space, warehouse and workshops, and a depot for Dublin City Council street cleaning. The street frontages onto Moore Street accommodates retail units. The block is, however, also characterised by a high level of dilapidated building stock, underutilised or unoccupied upper floors on Moore Street, and entirely unused structures along Moore Lane frontage. Moore Street itself is characterised by the market with the ILAC Centre located directly to the west of Site 5. The following is a brief description of each group of buildings occupying the site: -

#### Nos. 22 – 23 Moore Street and No. 13 Moore Lane

Three-storey, five-bay brick and glass-fronted building. Each bay projects forward from the plane of the facade, with timber casement windows further dividing each pier. Built c. 1965 as a bingo hall, this structure retains a modern shop front at ground floor level and is an architectural outlier within the historic streetscape. The building extends back to Moore Lane and is a concrete structure with no evidence of earlier fabric visible. The building is currently vacant above an active retail unit at street level.

#### Nos. 24 – 25 Moore Street

Three-storey, three-bay, brick-fronted building with limestone quoins, frieze and blocking course framing facade. Brick is laid in a stretcher bond with a sawtooth course below frieze. Square-headed windows on upper floors are a mix of aluminium and uPVC timber casement windows.

Built 1990s in an overtly Neoclassical character to the otherwise vernacular idiom of Moore Street. The building is currently occupied and it is currently hosting offices for Dublin City Council's street cleaning depot.

#### No. 14 Moore Lane

Vacant plot with the south boundary wall comprising a mix of calp limestone and brick remnants of demolished buildings. The vacant site is occupied by Dublin City Council street cleaning vehicles.



Figure 1: Extract from Google Earth showing Site 5 outline in red with wider Masterplan area outline in orange(indicative overlay by SLA).

### 2.1.1 Dublin Central Masterplan Area

Site 5 forms part of the wider envisaged Masterplan, the latter extending to c. 2.2 ha. The Masterplan almost entirely encompasses three urban blocks, bounded generally by O'Connell Street Upper and Henry Place to the east, Henry Street to the south, Moore Street to the west, and O' Rahilly Parade and Parnell Street to the north. Moore Lane extends south from Parnell Street through the centre of the Masterplan, as far as its junction with Henry Place.

The Applicant's rationale for making multiple applications for the component parts of Dublin Central have been set out in the Planning Application Report prepared by Stephen Little & Associates which accompanied the planning application.

## 2.2 Land Use Zoning

Under the Dublin City Development Plan 2016 – 2022, as may be seen from the zoning map extract below, the site is subject to the zoning objective, "Z5 – City Centre", in common with much of the city centre area in the immediate vicinity of the application site.

The land use objective for the Z5 zoning seeks: -

*"To consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity."*



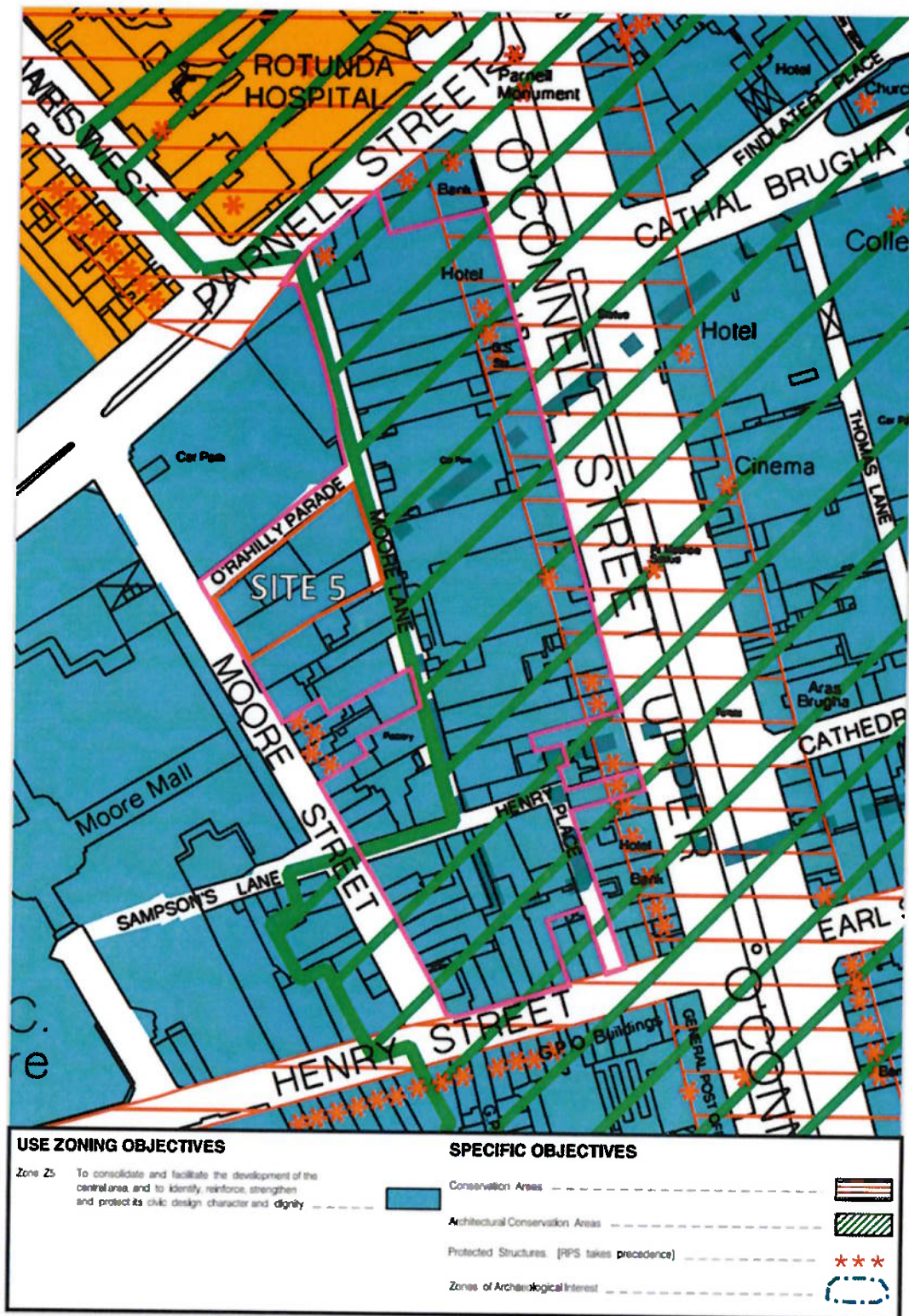


Figure 2: Extract from Map E of the Dublin City Development Plan 2016 – 2022 with Site 5 outlined in red and the Masterplan outlined in purple. There has been no change to the zoning map contained within Site 5 under the recently published Draft Dublin City Development Plan 2022 – 2028.

Site 5 comprises proposed office and café / restaurant uses, which are all permissible in principle under the Z5 zoning.

## 2.3 Strategic Planning Policy Context

The proposed development has been designed, and subsequently approved by the Planning Authority, in full accordance with the relevant strategic and statutory planning policy context.

We refer the Board to the Planning Report, prepared by this Stephen Little & Associates, included with the Planning Application.

## 2.4 Proposed Development

The proposed development at Site 5 comprises a mixed-use scheme which ranges in height from two to six storeys (top floor set back) over new single storey localised basement incorporating café/ restaurant and office uses.

The development is set out as follows: -

- A mixed-use scheme in a single building (c. 6,478 sq. m gross floor area) ranging in height from 2 – 6 storeys (top floor set back) over single storey localised basement. The building includes office space (c. 5,753 sq. m) from 1<sup>st</sup> to 5<sup>th</sup> floor with office lobby at ground floor level, with 3 no. terraces at 2<sup>nd</sup>, 3<sup>rd</sup> and 5<sup>th</sup> floor respectively (c. 401 sq. m in total) addressing Moore Street and 3no. licenced restaurant / café units with takeaway / collection facility at ground floor (Unit 1 on Moore Lane & O’Rahilly Parade – c. 228 sq. m, Unit 2 on the proposed new public plaza – c. 271 sq. m and Unit 3 on Moore Street, O’Rahilly Parade and the proposed new public plaza – c. 179 sq. m), together with provision of a ‘delivery hub’ unit at ground floor level (c. 46 sq. m).
- All associated and ancillary site development, demolition, landscaping, site infrastructure and temporary works, including: -
  - Demolition of all existing buildings and structures on site (c. 2,312 sq. m).
  - Provision of part of a new public plaza (168 sq. m) and associated temporary works pending completion of the combined plaza with the concurrent planning application for the adjoining Site 4 immediately to the south (1,253 sq. m public plaza overall).
  - 58no. bicycle parking spaces at ground floor level with associated cycling welfare facilities.
  - Plant at basement and roof level.
  - Building signage zone and retractable canopies.
  - A surface water drainage pipe will be laid between Site 5 and existing services in Parnell Street and will be laid in O’Rahilly Parade and Moore Street.

### 2.4.1 Summary of Amendment to the Proposed Development at Further Information Stage (19 October 2021)

In addressing Items 1 – 6 of the DCC Request for Further Information, design amendments were made to the proposed development included: -

- Minor adjustments to the window arrangements of Nos. 22 – 25 Moore Street.
- Additional indicative detail of café / restaurant units fit out to demonstrate the ability to accommodate bicycle storage.

For the avoidance of doubt, no changes were required to the water services (foul, surface water and water supply) or landscaping arising from the request for Further Information.

### 2.4.2 Summary of Amendments to the Proposed Development at Clarification of Further Information Stage (29 April 2022)

No amendments were made to the proposed development at Clarification of Further Information Stage.

## **2.5 Planning Application & Further Information Response Material**

We trust that the Board will note from the extent of material / assessment at Planning Application and Further Information stages, that considerable time and effort was expended by the Applicant to develop a suitable and sustainable development for the site. This involved a complex interdisciplinary design approach involving the Applicant's core Design Team and other external experts. The strategic importance of the development site was therefore clearly appreciated by the Design Team from the very outset and through the application stages.

As the Board will note from the material on file, the Planning Authority sought a physical model as part of the Request for Further Information in this case. This would have been a matter of public record at the time. Rather than submitting a model of Site 5 in isolation, the Applicant has provided the Planning Authority (and now An Bord Pleanála) with a model of the wider Dublin Central lands showing how the proposals relate to their current surrounds.

### 3 RESPONSE TO GROUNDS OF APPEAL

The Applicant has gone to great length to ensure that a comprehensive planning and environmental assessment of the proposal was provided to DCC, demonstrating how the proposed development is compliant with the relevant statutory planning policy and the proper planning and development of the area. We are pleased to note from the Council Planner's Report, dated the 28 July 2021, its Clarification of Further Information Report, dated 13 January 2022, and the Council's favourable decision dated 28 June 2022, that the Planning Authority is satisfied that this is the case.

We would highlight that the concerns raised in this Third Party submission, and repeated in their appeals to the Board, have been either addressed in the initial assessment of the Planning Authority, or in certain instances formed the basis of its Further Information request. Ultimately the Planning Authority was satisfied, when making its assessment and determination, that all issues raised were satisfactorily resolved. We would respectfully submit that no new issues are now brought to the Board in the Third Party Appeals.

Notwithstanding the above, in making this response to the Board, we have sought to identify all of the grounds of appeal, raised in the Third Party Appeal by Stephen Troy, under the common themes identified below. We then provide our response to these issues.

Having carefully reviewed the content of the Third Party Appeal by Stephen Troy, our summary interpretation of the main grounds of appeal to relate to the following topics: -

- Re-submission of previous appeal for Sites 3 (DCC Reg. Ref. 2861/21 – ABP Ref. ABP-312603-22) and Site 4 (DCC Reg. Ref. 2862/21 – ABP Ref. ABP-312642-22) our summary interpretation of the main grounds of appeal to relate to the following topics: -
  - Conservation / Built Heritage / Protected Structures.
  - National Monument & Ministerial Consent.
  - Design, Scale & Layout.
  - Proposed Uses.
- Additional issues raised: -
  - Department of Housing, Local Government & Heritage submission.
  - Construction / Traffic Management.
  - Daylight & Sunlight Analysis.
  - Duration of Permission.
  - Impact on Market Traders and Local Business.
  - Alternative Proposals.
  - Other Matters.

We proceed to provide the Applicant's response to the Third Party grounds of appeal in the next sections. We note generally that the Third Party Appeal has in some instances raised concerns that are inherently addressed by way of extensive research, presented in the planning submission.

#### 3.1 Request for an Oral Hearing

Before addressing the planning matters raised in the grounds of appeal, we acknowledge that the Appellant has sought an Oral Hearing of this application. In response to this point we note that the absolute discretion to hold an Oral Hearing rests entirely with the Board.

We note that the Board have considered that an Oral Hearing is not required to determine Site 3 (DCC Reg. Ref. 2861/21 – ABP Ref. ABP-312603-22) and Site 4 (DCC Reg. Ref. 2862/21 – ABP Ref. ABP-312642-22). This was confirmed to this office by correspondence from An Bord Pleanála, dated 21 April 2022.

Notwithstanding this, it is entirely a matter for the Board whether an Oral Hearing would assist them in their understanding of the issues at hand. If the Board does form that view, the Applicant will, of course, participate and assist as required.

### 3.2 Issued Raised by the Appellant Relating to Site 3 & Site 4

The Appellant has submitted a Third Party Appeal on both Site 3 (DCC Reg. Ref. 2861/21 – ABP Ref. ABP-312603-22) and Site 4 (DCC Reg. Ref. 2862/21 – ABP Ref. ABP-312642-22).

To ensure all matters are comprehensively addressed the following sections address grounds more generally associated with Site 3 and Site 4. Given the interrelated nature of the Dublin Central Masterplan we consider it prudent to address overarching issues for the benefit of the Board.

In submitting the Third Party Appeal on Site 5 the Appellant has raised a number of additional grounds also which are addressed in Section 3.3 below.

#### 3.2.1 Conservation / Built Heritage / Protected Structures

The Appellant has raised concerns regarding the approach to conservation and built heritage and it has been alleged that these have not been taken in to consideration. The main concerns raised relate to: -

- Assessment of the historical significance existing buildings.
- The historic context / special setting of the area has not been taken into consideration.
- The extent of demolition and the loss of built heritage.
- Impact on the O'Connell Street Architectural Conservation Area (ACA) and the extent to the ACA.
- Reports on No. 10 – 25 Moore Street (buildings forming part of a number of motions by Members of Dublin City Council).

##### 3.2.1.1 Conservation Approach / Demolition

From the outset, we would highlight that the Applicant, Dublin Central GP Limited, has employed the expertise of a wide ranging design team, including significant input from conservation specialists, Molloy & Associates Conservation Architects<sup>1</sup>.

The Dublin Central project has been the subject of extensive new conservation research and analysis by Molloy & Associates Conservation Architects. This has informed the approach to both the Masterplan by way of Conservation Management Plan and the Site 5 proposal. The research and analysis by Molloy & Associates Conservation Architects of the buildings and setting of Site 5 has been extensive and has informed its Architectural Heritage Impact Assessment and the EIAR. The content of these assessments includes: -

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<sup>1</sup> Archive and field research / recording and documentation carried out by Rob Goodbody BA(Mod), DipEP, DipABRC, MA, MUBC, MIPI and Sunni Goodson BA, Msc Conservation of Historic Buildings, HNC Interior Design.  
Historic Urban Landscape Assessment by Dr. John Olley BEng, PhD.

Forensic Archaeology comprising the analysis of mortar and masonry by Dr. Jason Bolton MA, MIAI, PhD.

Findings collated and opinions provided by Conservation Architects: -

Maol Íosa Molloy B.Arch., BSc.Arch., MUBC, Dip.Arb., MRIA, RIBA, MCI.Arb., Grade 1 Conservation Architect.

Michael O'Boyle B.Arch., MUBC, FRIAI, Grade 1 Conservation Architect.

Shelley O'Donovan B.Arch., PGDip., MRIA, RIBA accredited Conservation Architect, Grade 2 Conservation Architect.



### Architectural Heritage Impact Assessment

- Introduction.
- Baseline Description.
- Statutory Protections.
- Historical Backgrounds.
- Statement of Significance (definition of significance and assignment per building).
- Development of Description (description of proposed works including conservation and repair works).
- Architectural Heritage Impact Assessment.
  - Part 1 – Consideration of statutory and non-statutory architectural heritage protection.
  - Part 2 – Anticipated singular and collective assessment of impacts.
- Summation.
- Appendices.
  - **A5.1:** Conservation Plan & Appendices.
    - A1 Archaeology and Cultural Heritage.
    - A2 Building Inventory, Description and Assessment.
    - A3 Historic Urban Landscape Assessment.
    - A4 The Urban Battlefield.
    - A5 Building Fabric Analysis Volume 1.
    - A6 Building Fabric Analysis Volume 2.
  - **A5.2:** Chronological Drawings.
  - **A5.3 – 5.5:** Building Inventory (Individual Buildings within Site 5).
  - **A5.6:** Impact Assessment of the Public Realm.

### EIAR Chapter 15: Cultural Heritage (Architectural)

- Assessment of the potential impact on architectural heritage for the Masterplan and Site 5 and cumulative development as appropriate.

Extensive structural survey and construction methodology work has been carried out by Murphy Surveys and Waterman Structural Engineers to ensure that the extent of existing buildings and basements to be retained and demolished is understood. All buildings proposed to be retained will be appropriately propped and supported during the construction phase.

The proposed development at Site 5 includes the demolition of all existing buildings on the site (c. 2,312 sq. m gfa). The analysis by Molloy & Associates Conservation Architects concludes that there are no buildings of significance within Site 5, and no buildings dating from the events of The Easter Rising. The wall of No. 14 Moore Lane to the south of the plot, built from the calp stone will be taken down by hand and stored for re-use within Site 4. It is acknowledged in the Architectural Heritage Impact Assessment, prepared by Molloy & Associates Conservation Architects that whilst the wall of No. 14 Moore Lane was in existence in 1916, the wall did not form part of the 1916 narrative. The demolition of the industrial building once occupying this now vacant plot in the mid-20<sup>th</sup> Century has resulted in the loss of meaning / purpose associated with the wall, thus its significance is diminished.

It is suggested by the Appellant that a new conservation assessment should be undertaken. Molloy & Associates Conservation Architects set out within the Architectural Heritage Impact Assessment the statutory mechanisms associated with the site (i.e. no building on the RPS, site not within the O'Connell Street ACA) and go on to set out how they have approached the assessment of significance in response to the specific characteristics of the site. Reference is also made as to how ICOMOS Conservation Charters inform the assessment.

Furthermore, in terms of understanding the historic setting of the areas, studies including the 'Historic Urban Landscape Assessment' by Dr. John Olley BEng, PhD has informed the overall Dublin Central Masterplan and Site 5 proposal (Refer to A5.1: Conservation Plan & Appendices).

The Planning Authority expressed itself to be satisfied that the strategy for proposed demolition across the site had been thoroughly investigated and justified. We note the conclusion of the Planner's Report that: -

*"Nos. 22, 23 Moore Street / 13 Moore Lane is a replacement building that was constructed in c.1965 and is a concrete structure with no evidence of earlier fabric visible, while Nos. 24, 25 Moore Street / No. 14 Moore Lane is a replacement building that was constructed in the 1990s. To the rear of the building is a large yard that extends as far as Moore Lane, and the enclosing boundary comprises a galvanised steel railing which is of no conservation interest. Accordingly, no objections are raised to the proposed demolition of the existing buildings. The survival of the historic boundary wall between Nos. 23 and 24 is noted and was considered to be of moderate significance. Its loss, albeit regrettable, is deemed acceptable. ..."*

[Bold Font emphasis by SLA]

The Conservation Department, while expressing some regret at the loss of existing plot delineation, acknowledges the balanced need for regeneration and reuse in this area. It is noted that: -

*"... the re-animation of this site, which has suffered from lack of investment, general deterioration, underuse, poor presentation, and where the back lanes have become associated with anti-social behaviour and neglect, is welcomed and supported in principle by the Conservation Section."*

[Bold Font emphasis by SLA]

It is noted that the Conservation Officer notes the demolition of Nos. 22 – 25 Moore Street is acceptable however, expresses some concern regarding the demolition of the historic boundary wall, stating: -

*"The proposed demolition of Nos. 22, 23, 24 and 25 Moore Street is of little consequence in architectural heritage terms, other than the aspects of sustainability, and the final loss of any references to the original historic plots and urban grain of the street. The demolition without any legibility of the remains, albeit currently in poor condition and piecemeal in nature, of the historic boundary wall between Nos. 23 and 24 is regrettable, and this wall should be fully recorded in drawn and photographic format and the materials salvaged and reused within repairs to existing buildings or in landscaping where appropriate."*

[Bold Font emphasis by SLA]

As per Condition 15 (e)(ii) of the Notification of Grant of Permission, the Applicant is committed to record drawn and photographic survey of the boundary wall between Nos. 23 and 24 for it to be salvaged and re-used within repairs to existing buildings or in the landscaping if possible.

It has been demonstrated that the subject site is not considered historically sensitive and we trust An Bord Pleanála can readily determine this to be the case from the content of the material provided by the Applicant and their team in relation to this matter. It is also our firm conviction that the proposed development strikes a reasonable and appropriate balance between the need to respond positively to the architectural built and cultural heritage associated with the adjoining sites, whilst also delivering implementable urban renewal at this strategic city centre site.

We refer to the Board detailed analysis of the heritage context and impact of Site 5 as detailed in the architectural heritage reports prepared by Molloy & Associates Conservation Architects, which accompanied the Planning Application.

### 3.2.1.2 Protected Structures

The Appellant has referred to the lack of assessment of buildings within the subject site which are to be added to the record of Protected Structures. Multiple references are made in the Third Party Appeal to motions of members of Dublin City Council to add buildings to the Record of Protected Structures. It is asserted that by virtue of these motions that the buildings are deemed to have that protection. We would refute such an assertion.

We refer to Figure 2 above, which is an extract from Map E of the Dublin City Development Plan 2016 – 2022. It is respectfully submitted that there are no Protected Structures identified at Site 5 on the zoning map or listed in the current Dublin City Development Plan RPS. We would further note that the Draft Dublin City Development Plan 2022 – 2028 which has recently been on public display does not include any new additions to the RPS within Site 5. As such, notwithstanding the arguments presented by the Appellant in this instance, the buildings in question within Site 5 are neither Protected Structures nor are they Proposed Protected Structures. Certain structures within the wider Dublin Central Masterplan site are now proposed to be added to the Record of Protected Structures. None of those are within Site 5. Other structures, including within Site 5 have been investigated for their potential to be the subject of such a proposal, but those are not, as a matter of fact or law, a Protected Structure or proposed for addition to the record.

As set out in the assessment carried out by Molloy & Associates Conservation Architects and acknowledged by the Planning Authority, there are no buildings of significance within Site 5.

### 3.2.1.3 O'Connell Street ACA

The impact of the Dublin Central development on the O'Connell Street ACA has also been raised by the Appellant. In the first instance we note that Site 5 is outside the O'Connell Street & Environs Architectural Conservation Area (ACA). However, a comprehensive assessment of the impact on the proposed development on the ACA was submitted with the Planning Application. This included an assessment of the building height of the proposed development within the context of the Urban Development and Building Heights, Guidelines for Planning Authorities (2018).

The Planning Application was accompanied by Landscape and Visual Impact Assessment (EIAR Chapter 12: Landscape & Visual Impact Assessment), prepared by ARC Architectural Consultants. The LVIA generally noted that on the O'Connell Street axis in relation to Sites 3, 4 and 5, visual impact is likely to range from 'none' to 'imperceptible', and becoming 'slight' to 'moderate' at locations near the Spire and the GPO and from Marlborough Street looking west up Cathedral Street. It was noted in the LVIA that Site 5 will not be visible from any of the O'Connell Street views and so will have no impact on the O'Connell Street ACA.

### 3.2.2 National Monument & Ministerial Consent

The Appellant raises concerns regarding works in proximity to the National Monument. Furthermore, these appeals highlight that no reference is made to the requirement for Ministerial Consent.

The National Monument is located at Nos. 14 – 17 Moore Street. The National Monument is **not within** the Site 5 application site.

As set out in the Planning Application Report (Section 6.4), prepared by Stephen Little & Associates, it is acknowledged in that, in line with the provisions of the National Monuments Act, 1930 (as amended), any development that alters the National Monument, or disturbs the ground around or in proximity to it, will require the appropriate Ministerial Consent under Section 14 of that legislation.

Ministerial Consent is a separate process and will be entered into prior to any works to or adjacent the National Monument. Again, for the avoidance of doubt, no work are proposed to or adjacent the National Monument at Site 5.

The Site 5 site enabling works and construction are not directly adjacent the National Monument. However, consideration has been given to the protection of the National Monument as set out in the Site 5 Outline Construction & Demolition Management Plan, prepared by Waterman Moylan Consulting Engineers in this respect and have been assessed and considered in the EIAR.

Prior to demolition of any existing buildings, an external survey control system is to be established around the site, including all protected structures, retained buildings, retained facades and the National Monument. This will be carried out using traditional closed traverse surveying techniques and will involve the setting up of sufficient external control stations to allow monitoring of the neighbouring structures during and after demolition.

We respectfully submit that no works are proposed to or adjacent the National Monument as part of the proposed redevelopment of Site 5. All necessary measure to protect the National Monument during the construction phase of Site 5, including demolition and enabling works, will be implemented. As such, no adverse impacts are anticipated to the integrity of the National Monument.

#### 3.2.2.1 Extent of the National Monument

Nos. 14 – 17 Moore Street is a National Monument in State ownership and care, which is subject to a preservation order (PO) made under the National Monuments Acts 1930 to 2014 (PO No. 1/2007). In addition to this designation, it is also listed in the Record of Monuments and Places (RMP DU018-390) and in the Record of Protected Structures in the Dublin City Development Plan 2016 – 2022 (RPS Nos. 5282 – 5285).

The Appellant asserts that the High Court has defined the extent of the National Monument as encompassing the battlefield beyond 14-17 Moore Street (*Moore v. Minister for Arts, Heritage and the Gaeltacht* [2016] IEHC 150). However, it should be duly noted that the Court of Appeal subsequently set aside the High Court ruling, finding that it was not within the jurisdiction of the courts to designate a national monument (*Moore v. Minister for Arts, Heritage and the Gaeltacht* [2018] IECA 28, pars. 46 – 49 and 61 – 65).

As such, the extent of the National Monument is as set out under PO No. 1/2007.

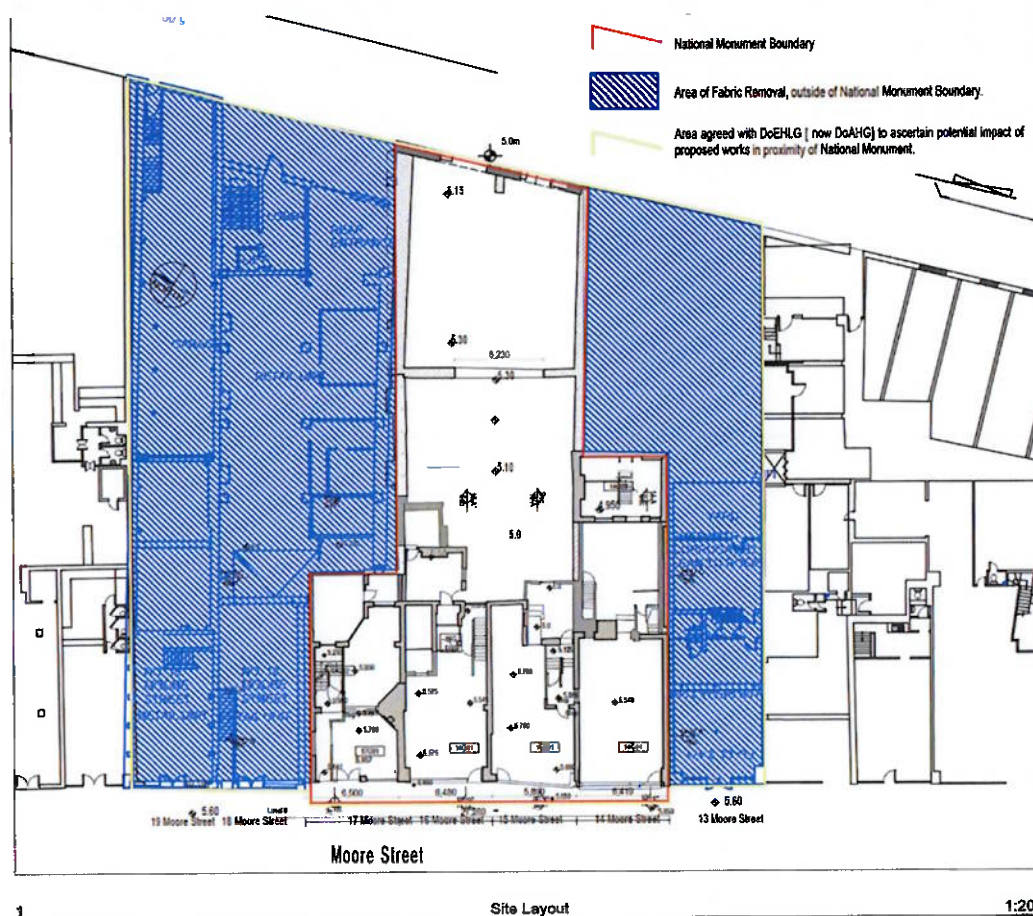


Figure 3: Delineation of the National Monument as including proximity zone under the existing Ministerial Consent (C392).

### 3.2.3 Design and Scale

The Appellant has raised concerns that the design, scale and layout of the proposed development is out of context, in particular in the context of the National Monument (No. 14 – 17 Moore Street).

In accordance with Section 16.7.2 of the Development Plan, the Planning Authority expressed itself satisfied that the development proposal compliant with the relevant height standards pertaining to the site.

Furthermore, the Planning Authority identifies that the greatest impact of the proposal would be from within the immediate vicinity of the site, where there will be a significant degree of change. It is noted that whilst *“it is considered however that a significant degree of change does not necessarily equate to a negative impact. In this instance it is considered that the proposed development, in terms of height and massing would be in keeping with the existing and developing built context and does not give rise to an unacceptable or overbearing impact upon the adjoining development.”* [Bold Font emphasis by SLA]

In relation to the appearance, architectural design, and layout, the Planning Officer generally concludes that: -

*“The new structure is very much a contemporary modern office building which is noted to be a step change from the standard historical redbrick finishes used throughout development in the locality. It is however considered this contrast, clearly distinguishing new interventions from historic. Accordingly, it is considered that the proposed development is unlikely to have a detrimental visual impact.”*

[Bold Font emphasis by SLA]

In relation to layout and design, the Planning Officer generally concludes that: -

*“..the Planning Authority is satisfied that the proposed development is sufficiently setback from and is of an appropriate scale ...”*

[Bold Font emphasis by SLA]

We refer the Board to the ACME Architectural Design Statement, submitted at planning application stage, which provides a clear illustration and description of the site context at Site 5. We also refer to the contextual elevations, prepared by ACME Architects submitted at further information stage which show the Site 5 proposal in the context of Sites 3 and 4. To the west of Site 5 the building follows the small scale urban fabric of Moore Street and rises to 3 and 4 storeys. The heights onto Moore Street make a gradual transition to the building height set across O’Rahilly Parade by the Jurys Inn.

We respectfully submit that the design and scale of Site 5 respectfully responds to the site characteristics and context and will make a significant positive contribution to the rejuvenation of the Moore Street area.

### 3.2.4 Proposed Uses

#### 3.2.4.1 Mixed Use

The Appellant has raised concerns regarding the office use proposed in Site 5, as well as proposed retail uses. Site 5 does not contain any retail element, but is proposing café / restaurant uses at ground floor. It is argued that the proposed mix of uses will not contribute to or generate activity or support the concept of day-to-night economy. It is submitted that the proposed café / restaurant use will contribute to the night-time economy as well as activate and add vibrancy to Moore street and the proposed public square.

We would highlight that the Planning Authority considers the mix of uses proposed to be appropriate to this site, having regard to the site context and the Z5 (City Centre) land use zoning objective. The Planner’s Report states: -

*“Taking into account the dilapidated and underutilised nature of the subject site, it is considered that the proposed development on the Z5 lands is acceptable in principle, contributing to the provision of office accommodation with the area and is considered an appropriate use for the site.”*

[Bold Font emphasis by SLA]

Site 5 comprises office and café / restaurant uses, which are all permissible in principle under the Z5 zoning.

We refer the Board to the Dublin Central – Commercial Rationale Report, prepared by JLL submitted at planning application stage. The reports finds a long term positive outlook for the Dublin 1 office market. Acknowledging the impact of COVID-19, the report notes that future office demand is likely focus on the quality of spaces and location, where enticing the workforce into buildings will be dependent on accessibility, ease of commute and access to wider amenities.

We would highlight that the Planning Authority considers the mix of uses proposed to support the City economy objectives of the Dublin City Development Plan. The Planner’s Report states: -

*“In terms of the economic benefit of the proposed development, Policy CEE3 seeks to take a positive and pro-active approach when considering the economic impact of major planning applications in order to support economic development, enterprise and employment growth. In compliance with Policy CEE11 the development will facilitate the supply of commercial space whilst Policy CEE15 will facilitate the transformation of an inner city area to improve the attractiveness and competitiveness of the city. The rehabilitation and use of vacant and underutilised buildings, including their upper floors is promoted through Policy CEE16 whilst Policy CEE18 specifically references the unique importance of the Moore Street Market and seeks to ensure its protection, renewal and enhancement, in co-operation with the traders as advocated by the Moore Street Advisory Committee Recommendation relating thereto. Overall, the proposed development will provide a comprehensive redevelopment of the wider masterplan area bringing a number of underutilised buildings into use through a diverse scheme of demolition, adaptive reuse as well as façade retention thus broadly complying with these overarching policies.”*

[Bold Font emphasis by SLA]

The scheme is representative of plan-led, high-quality urban and architectural design, which seeks to achieve the sustainable regeneration of an underutilised brownfield site. We respectfully submit that Site 5, delivers an appropriate mix of uses, both vertically and horizontally, with street activating café / restaurant at ground floor level, complemented by office use at upper floors, increasing activity across the site and wider area. Site 5 will make a positive contribution to addressing an improved business environment and employment generation at this site.

### 3.3 Additional Grounds / Issued Raised

The following sections of this Report respond to additional grounds raised by the Appellant. Some of the issues raised are not specific to Site 5 including a number which we respectfully consider not to be planning matters. Notwithstanding, for completeness, we set out our response to each new / additional ground of appeal below.

#### 3.3.1 Department of Housing, Local Government & Heritage Submission

The Appellant submits that the Department of Housing, Local Government & Heritage submission was ignored in the context of the **Site 3 planning application** (DCC Reg. Ref. 2861/21 – ABP Ref. ABP-312603-22). This has been comprehensively addressed in the First Party response to that Third Party Appeal submitted to An Bord Pleanála on 14 March 2022. The extracts included in the Appellants appeal documentation relating to Site 3 (DCC Reg. Ref. 2861/21 – ABP Ref. ABP-312603-22 refers) has no bearing on the appeal relating to Site 5 (DCC Reg. Ref. 2863/21).

Notably, the Planning Authority acknowledged the submission made by the Department of Housing, Local Government & Heritage in relation to Site 5 which is summarised in the Planner's Report as "*no objection subject to conditions being imposed*". A number of conditions have been included in the Notification of Grant of Permission reflecting the conditions recommended by the Department of Housing, Local Government & Heritage. The Applicant is committed to adhering to these conditions as required.

#### 3.3.2 Construction / Traffic Management

The Appellant objects to the development on grounds relating to construction and traffic management, we address this as follows: -

##### 3.3.2.1 Noise, Vibration & Dust

We refer the Board in the first instance to the Outline Construction & Demolition Management Plan (OCDMP), prepared by Waterman Moylan Consulting Engineers, which accompanied the Planning Application. This includes management of the construction process for Site 5 including appropriate mitigation measures for the control of noise, dust and vibration, amongst other matters. The following is an outline of the measures outlined in the OC&DMP: -

- Site Setup including but not limited to location of hoarding, location of site compound, access and egress into individual sites, crane strategy, parking provisions, services for the construction site (drainage, power etc.) and on site facilities (wheel washing, security etc.)
- Construction Methodology including but not limited to surveys required, approach to enabling works (demolition, excavation etc.), basement / foundations, superstructure and retention of existing building fabric where relevant.
- Construction & Demolition Waste including the management of all waste generated from the demolition and construction of each site.
- Protection of Existing Buildings including the retention of buildings / façade where relevant, exclusion zones (in particular adjacent No. 14 – 17 More Street – National Monument / Protected Structure) and movement monitoring programme.

- Control of **Noise, Dust and Vibration** including all appropriate mitigation measures.
- Approach to Archaeological Monitoring.
- Compliance with Building Control Regulations.
- Liaison with Third Parties.

The DCC Environmental Health Officer determined that “[the] construction management plan is compliant with the Air Quality Monitoring and Noise Control Unit’s Good Practice Guide for Construction and Demolition.”

On the appointment of a contractor, the OC&DMP will be updated and agreed with Dublin City Council (Condition 19 of the Notification of Grant of Permission by DCC) to ensure best construction practice is implemented, including the management of noise, dust and vibration.

Furthermore, in accordance with Condition 23 of the Notification of Grant of Permission by DCC, the mitigation measures set out in the EIAR **shall** be implemented. Chapter 11 – Noise & Vibration of the EIAR sets out detailed mitigation measures in relation to the control, as far as practicable, of noise, dust and vibration during the construction process.

### 3.3.2.2 Traffic Management

We refer the Board to the Preliminary Construction Traffic Management Plan (PCTMP), prepared by Waterman Moylan Consulting Engineers, which accompanied the Planning Application. This was done in close consultation with Dublin City Council and its Roads and Transportation Departments.

It may be noted that the Preliminary Construction Traffic Management Plan provides a guide as to how construction traffic will be managed as part of any construction works. The final detailed Construction Traffic Management Plan will be prepared by the appointed Contractor for agreement with Dublin City Council at the appropriate time. It is normal practice that the Construction Traffic Management Plan is a live document, which is updated throughout the construction period to take account of any changes to the surrounding road network and / or other factors that might influence construction traffic. An appropriate condition (Condition 19) has been attached to the Council’s decision to this effect.

In the PCTMP two construction routes to the site have been identified both to Parnell Street. One would be via Summerhill and Parnell Street and the second preferred route via Dorset Street and Dominick Street Lower as shown in Figure 4 below. At pre-planning stage, the Planning Authority noted that construction access via O’Connell Street would be very challenging, in particular due to disruption to public transport facilities in proximity to the Masterplan site and thus not favourable.

Traffic and other movements on the road network during the construction phase will be managed by carrying out the works in a number of stages to a sequence to be prepared in conjunction with Dublin City Council and implemented by the main Contractor.





**Figure 4:** Emerging Haul Routes for Construction Traffic (Inbound in green and outbound in red) – See Chapter 13: Material Assets (Transportation) also.

As such, the two alternative scenarios of access via Parnell Street were developed in detail, based on clockwise and anti-clockwise circulation around the block bounded by Moore Street, O'Rahilly Parade and Moore Lane.

The preferred option is the anticlockwise circulation included the local traffic management proposals presented in Figure 4 above. Inbound access for the majority of construction vehicles is proposed from Parnell Street to Moore Street / O'Rahilly Parade and outbound departures from Moore Lane to Parnell Street. This preferred option was selected on the basis of a number of local constraints including: -

- The lack of a stacking lane on Parnell Street in advance of the left turn into Moore Lane should there be a delay entering Moore Lane for whatever reason.
- The restricted width of the left turn from Parnell Street around Conway's public house into Moore Lane which could cause delays due to the slow deliberate turning for vehicles across a busy restricted area.
- The relatively easy right (and left) turns from Parnell Street to Moore Street.
- The availability of a stacking area for the right (and left) turns from Parnell Street into Moore Street.
- Local traffic management on Moore Lane would require the presence of temporary traffic signals and / or flagmen at different locations and at different times to facilitate vehicles passing depending on the movements in progress.

Arrivals are proposed from Parnell Street via Moore Street and O'Rahilly Parade. Some limited departures are proposed to O'Connell Street Upper via Henry Street up to 11h00 after which Henry Street is restricted to pedestrians only. The remaining departures are proposed to Parnell Street via Moore Lane.

Traffic and other movements on the road network during the construction phase will be managed by carrying out the works in a number of stages to a sequence to be prepared in conjunction with Dublin City Council and implemented by the main Contractor.

Dublin City Council Roads Streets & Traffic Department Road Planning Division, in its Report to the Planning Department identifies that: -

**[Bold Font emphasis by SLA]**

JULY 2022



Figure 6: Extract from Google Maps Street View from 2009.

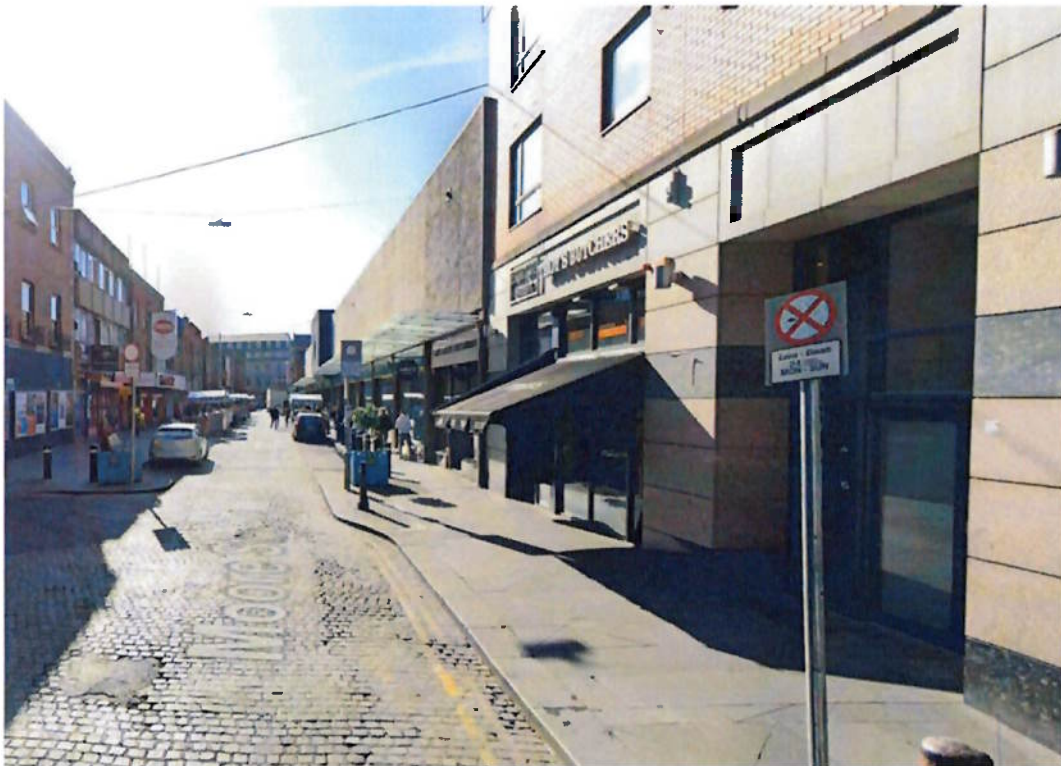


Figure 7: Extract from Google Maps Street View from 2019.

We acknowledge the Dublin City Council are ultimately responsible for planning enforcement matters should concerns be raised regarding unauthorised development.

As noted above, on the appointment of a contractor, the PCTMP will be updated and the full details of the arrangements for construction traffic routes at all stages of demolition and construction agreed with Dublin City Council at the appropriate time (Condition 19 of the Notification of Grant of Permission by DCC).

Furthermore, the exact detail of the temporary junction works will be subject to a separate Road Opening Licence Agreement which is standard practice in relation to works within the public street. Cognisance will be taken of all authorised works associated with adjoining businesses / buildings in formulating a workable layout to facilitate future construction traffic movements.

### 3.3.3 Sunlight and Daylight

The Appellant has submitted that the Daylight and Sunlight assessment carried out in relation to the impact on the existing apartments at the junction of Moore Street / Parnell Street north of the application site is flawed. We refute this assertion.

The Planner's Report, dated 12 January 2022, generally outlines that the issues raised by the Planning Authority at Further Information stage had also been satisfactorily addressed, with the exception of one element of the daylight impact analysis pertaining to the existing apartments at the junction of Moore Street / Parnell Street north of the application site.

The Planning Authority expresses itself to be otherwise satisfied that sunlight impact analysis of these apartments has been adequately addressed by the Applicant noting that: -

"Adjoining residential properties:

*The applicant team has provided a sunlight assessment, which considers the impact on the residential dwellings situated on the corner of Moore Street and Parnell Street. The submitted assessment encompasses all the windows and private amenity spaces of the units facing Moore Street and 5 of the assessed windows would experience reductions on Annual Probable Sunlight Hours (APSH) below the BRE recommendations, as a result of the proposed development at Site 5.*

*Of the windows that did not meet the BRE Guidelines, it is noted that these windows are set back into the building envelope of the existing building and in the pre development scenario these windows received relatively low levels of sunlight. Having reviewed the submitted report, the Planning Authority concurs that there would be no noticeable loss of sunlight to the Moore Street apartments as a result of the proposed development of Site 5. It is therefore considered that the proposed development is acceptable in this regard."*

[Bold Font emphasis by SLA]

The Planning Authority also considered, on balance, that the sunlight impact on the adjoining Jurys Inn Hotel and O'Rahilly Parade is acceptable.

The Planning Officer's Report goes on to consider the following in respect of daylight impact assessment: -

"Impact on the levels of daylight received by the surrounding properties:

*The applicant team has not provided an assessment of the potential reduction on the levels of daylight to the residential properties located on the corner of Moore Street and Parnell Street. It is considered that the acceptability of the proposed development cannot be determined until this information has been provided.*

*Considering the location of the subject site and the proximate relationship with the adjoining properties, it is considered vital that an assessment of the impact on the daylight levels received by the adjoining residential properties is required to be fully assessed in order to establish the acceptability of the proposed development.*

*In this regard it is considered that the applicant should be afforded the opportunity to provide the requested information through the provision of a full daylight analysis. This issue could be dealt with by way of a request for clarification of the additional information provided."*

DCC sought Clarification of Further Information of this singular item on 12 January 2022.



We refer the Board in the first instance to the Site 5 Daylight and Sunlight Impact Report, prepared by BDP M&E Consulting Engineers, submitted in response to the Clarification of Further Information request. This assesses the potential impact on the apartments located at the junction of Moore Street and Parnell Street.

### Sunlight

All the windows and private amenity spaces of the identified units facing Moore Street have been assessed. All but 5no. windows show no impact on Annual Probably Sunlight Hours (APSH) as a result of the proposed development at Site 5. The Report generally concludes with regard these units that: -

*"The Sunlight analysis found that generally there is no 'noticeable' loss of sunlight to the Moore Street apartments post development of site 5. Less than 6% of the sunlight to windows (5 of 91) are impacted if the BRE 209 methodology (2011) is used and the impact on average is just 80 hours of sunlight over a full calendar year. The existing context, north easterly orientation of these windows and existing balcony overhangs are the reason why Site 5 exceed the sunlight criterion threshold and this would not occur if the windows were within 90° of due south and the BRE 209 guidance was applied as it was intended."*

### Daylight

It is important to note how the BRE 209 Guidelines are intended to be implemented in response to this particular item. The BRE 209 guidance document recommends that loss of sunlight should be checked for main living rooms of dwellings, where they have a window facing within 90° of due south. **The apartments located on the junction to Moore Street / Parnell Street are within this definition** as the they are northeast facing (135° of due south).

Notwithstanding, the updated assessment, prepared by BDP M&E Consulting Engineers, also now considers vertical sky component (VSC). Based on the BRE 209 guidance, the study compares the current situation and development of Site 5 and considers if the values on the existing buildings (apartments located on the junction to Moore Street / Parnell Street) post development are above 27% or not less than 0.8 times their former value. The Report generally concludes, with regard to these units, that: -

*"The Daylight analysis found that with the exception of two windows the daylight analysis criterion is complied with demonstrating that the daylight impact post development is very minor and 89 of the 91 assessed windows (98%) shall not have a noticeable loss of daylight. The 2 windows that do not comply with the recommendations of BRE 209 guide (2011) have a vertical sky component (VSC) loss of just 2.71% (L01-C) and 2.65% (L02-C) which is very minor and only flagged as failing the daylight criterion because it represents over 0.2 times their former value. The daylight loss is therefore overstated due to the existing context, north easterly orientation and existing balcony overhangs the windows pre development receive."*

The Planner' Report, dated 28 June 2022, states that the daylight and sunlight assessment is satisfactory following the Clarification of Further Information response, noting that: -

*"... it is considered that this issue has been addressed and that, having regard to the existing urban context, the proposal would not result in any unacceptable impacts in respect of daylight."*

[Bold Font emphasis by SLA]

### 3.3.4 Duration of Permission

Permission with a life of 15 years is sought for the proposed development at Site 5. The following is explained for context, and without making any elaboration on the pending First Party Appeal.

This is a complex development, involving the conservation and adaptive reuse of historic structures and redevelopment of a city block of scale, at the junction of two of the busiest shopping streets in Dublin city centre.

Although Site 5 is capable of being developed independently, without reliance on final wider road and public realm works, it is also expected to become a seamlessly integrated part of the Masterplan.

Whilst it is not expected that a 15 year construction period will be required. Demolition of Site 5 will be needed early on to accommodate construction access to the Masterplan Area. Therefore the permission will be commenced early on, but actual construction will not commence until the other Sites are completed. As such, some reasonable flexibility on the duration of the life of the Site 5 permission is sought, beyond the more typical 5 year permission period. A permission with a life of 15 years is sought.

The Applicant submitted a First Party Appeal to the Board, on 20 July 2022, in respect only of Condition 5, which limits the duration of permission to 7 years (rather than 15 years sought). The Applicant has otherwise warmly welcomed the decision of the Planning Authority to grant permission, which it considers is informed by reasonable planning judgement. We refer the board to the First Party Appeal lodged as this provides further justification of why a permission of 15 years is sought.

### **3.3.5 Impact on Market Traders and Local Business Owners**

The Appellant objects to the development on grounds that the proposed development will have significant effects on the Moore Street Markets and local business owners.

Issues are raised regarding the impact of construction related impacts such as noise, vibration, dust and traffic. This has been discussed in Section 3.3.2 above. Any significant redevelopment of the site will give rise to some construction nuisance effects. Subject to the implementation of best practice construction mitigation such nuisance will be controlled as far as practically possible.

The Applicant has met the Moore Street traders on numerous occasions prior to making the planning application, both directly and via the Government appointed Moore Street Advisory Group (MSAG). The MSAG proposed a process be established to address trading issues arising during the construction phase.

As per Condition 14 of the Notification of Grant of Permission, the Applicant is committed to participating in that process under the leadership of Dublin City Council as the owner and licensor of the street market.

### **3.3.6 Alternative Proposals**

The Appellant objects to the development on grounds that, in their opinion, more suitable alternatives should be considered for the development of the general Moore Street area.

The proposed development (Site 5) within the context of the Dublin Central Masterplan will see the redevelopment and rejuvenation of lands broadly bound by Moore Street, Henry Place and Henry Street.

The Applicant has put forward a proposal for development following c. 24 months of detailed and constructive engagement with the Planning Authority culminating in a Notification of Grant of Permission by DCC on 28 June 2022.

The Planning Authority has assessed the proposal put in front of it by way of a Planning Application under Section 34 of the Planning & Development Act 2000, as amended. It has considered the 'Alternatives' in Chapter 4 of the EIAR that accompanied the Planning Application.

It must be noted that the Applicant has employed an experienced multi-disciplinary team in developing its proposals considering all complexities within its context, across the Masterplan area as well as within the subject site itself. Primary design considerations such as heritage and architectural considerations have underpinned the Site 5 proposal. These are in addition to but not limited to design consideration relating to servicing and waste management strategies, fire access, disabled access, pedestrian movement, public transport, public safety, anti-terrorism, security and sustainability.

It is noted that many Third Parties have described alternative concepts, but none of those are reasonable alternatives, in the sense contemplated by the EIA Directive or Irish planning law. None of them are feasible, or deliver the transparent objectives for the regeneration of the site. The Applicant has made a planning application in this case on lands they own and it is that development which An Bord Pleanála is being asked to assess.

### 3.3.7 Other Matters

The Appellant has raised a number of other items. These can be summarised as follows:-

- Alleged conflict of interest in the planning process by DCC Executive.
- Compensation process for Market Traders was arbitrary / not sufficient.
- The published MSAG Report is inaccurate.

We note the additional matters raised by the Appellant. However, we submit that the above listed items are not planning matters, and in particular are not relevant to the proper planning and sustainable development of the area, and as such will not be addressed in this appeal response.

Without prejudice to the foregoing, it is self-evident that the assertions made about the conduct of the Planning Authority are not proven and, in any event, could never undermine the integrity or independence of the Board in the exercise of its appellate functions. For completeness, the Applicant does not rely in this application (or appeal) on the outcome of the process of engagement with Market Traders. Finally, with respect to the MSAG Report, that does not purport to comprise an environmental assessment or appraisal of the proposed development, so should not suffer criticism of that nature.

## 4 POSITIVE ASSESSMENT OF THE PROPOSED DEVELOPMENT BY DUBLIN CITY COUNCIL

The preceding section of this Report set out the ground of appeal raised by Stephen Troy, the Third Party Appellant. Where relevant we have identified the positive assessment of the Planning Officer and other DCC Department in responding to the issued raised within our responses.

For the information of the Board, we identify below the further positive attributes of the proposed development, as assessed by the Planning Authority.

### 4.1 Land-Use Zoning & Mix of Uses

The Planning Authority considers the mix of uses proposed are appropriate having regard for the zoning objective of the site (Z5 – City Centre).

Regarding the uses proposed, the Planning Authority state that: -

*"Taking into account the dilapidated and underutilised nature of the subject site, it is **considered that the proposed development on the Z5 lands is acceptable in principle**, contributing to the provision of office accommodation with the area and is **considered an appropriate use for the site.**"*

[Bold Font emphasis by SLA]

A number of Third-Party Submissions raised concerns regarding the concept of a day-to-night area the Planning Authority do not consider this an issue. Furthermore, Failte Ireland in making a submission on the planning application noted the mix of uses proposed will strengthen the night-time economy.

*"The provision of extensive public realm enhancements and new public spaces in the city centre will support animation and increase dwell time. This will increase the destination's ability to maximise the economic benefits across multiple sectors including tourism."*

### 4.2 Demolition Strategy

The Planning Authority considers the proposed demolition acceptable, raising no objections to the proposed demolition of the existing buildings.

Some concerns are raised by An Taisce regarding the demolition and replacement of the redbrick and limestone Moore Street building frontage between the corner of Henry Street and Henry Place.

In relation to the demolition proposed, the Conservation Officer generally concludes that: -

*"...the proposed demolition of Nos. 22, 23, 24 and 25 Moore Street is of little consequence in architectural heritage terms, as the existing buildings are 20<sup>th</sup> century replacements."*

[Bold Font emphasis by SLA]

### 4.3 Shopfronts and Signage

The Planning Authority generally considers the shopfronts and signage proposals to be acceptable, noting that: -

*"Overall, the proposed design intention is **considered to be of a high quality and worthy of support.**"*

[Bold Font emphasis by SLA]

The Applicant would welcome a condition of permission that requires the full design details of the shopfronts to be submitted prior to the commencement of the use of each unit.

### 4.4 Landscaping / Public Realm

The Planning Authority is satisfied that the landscaping strategy for the site has been appropriately considered.



#### 4.5 Office Space

The Planning Authority generally considers the proposed office space acceptable, stating that: -

*“...the proposal would add to the stock of available office space in the city centre and likely generate new employment in the area. As a direct result of the proposed redevelopment of the subject site the envisioned increase in footfall, vibrancy and functionality is also likely to have a significant economic benefit for the local area and the city.”*

[Bold Font emphasis by SLA]

#### 4.6 Compliance with Wider Planning Policy

##### 4.6.1 Density

The Planning Authority considers the proposed density acceptable, “given the central location of the site and the height of surrounding buildings combined with numerous public transport facilities in close proximity and the lands could be considered an underutilised site a higher plot ratio is considered acceptable in this instance.”

##### 4.6.2 City Economy

The Planning Authority generally concludes that the proposed development has been robustly assessed against Development Plan policies furthermore stating: -

*“...the proposed development will provide a comprehensive redevelopment of the wider masterplan area bringing a number of underutilised buildings into use through a diverse scheme of demolition, adaptive reuse as well as façade retention thus broadly complying with these overarching policies.”*

[Bold Font emphasis by SLA]

#### 4.7 Drainage

No objection from the Drainage Department subject to conditions.

#### 4.8 Transportation

The Transportation Department has no objections to the non-provision of car parking at the subject site. Clarification was sought in the form of revised drawings to ensure the provision of adequate separation distance and roof height to accommodate the cycle parking. Furthermore, clarification was sought regarding the management and access to the bicycle store.

The Transportation Department considered that the clarification provided as part of the Applicant's Further Information response was acceptable.

#### 4.9 Archaeology

The Planning Authority considers the issue of archaeology to have been adequately addressed and no significant adverse effect is likely to arise.

Conditions requested by the Department of Housing, Local Government and Heritage are noted and welcomed by the Applicant.

#### **4.10 Appropriate Assessment**

The Planning Authority expresses itself satisfied that the information set out in the Applicants Appropriate Assessment Screening Report is satisfactory that development does not have the potential to affect the receiving environment and does not have the potential to affect the conservation objectives of any European site, either alone or in combination with any other plan or project.

#### **4.11 Environmental Impact Assessment (EIA)**

The Planning Authority considers that *“the majority of environmental effects arising as a consequence of the proposed development have been satisfactorily identified and assessed.”*

Condition 23 attached to the grant of permission ensures that the EIAR mitigation measures will be adhered to in the implementation of the permitted development.

## 5 CONCLUSION

The proposed development has been carefully conceived, having regard to the statutory planning context, to the specific context and character of the site and to the potential development at the surrounding regeneration areas.

The proposal currently before the Board has been the subject of in-depth assessment by both the Applicant and Dublin City Council.

Both the Applicant and Dublin City Council concur that the proposed development successfully provides for the rejuvenation of a significant brownfield site in Dublin City centre.

We do not consider that the Third Party Appeal to have raised any significant new issues that the Applicant and the Planning Authority have not already comprehensively dealt with through the Planning Application, Further Information and Clarification of Further Information process.

It remains our opinion that the proposed development is compliant with the Government and Dublin City Council policy guidance on strategic regeneration development in city centre locations. This includes the policies, objectives and design standards for mixed-use development in close proximity to several public transport nodes, to cater for a recognised demand for residential, retail, retail service, hotel and cultural uses.

We would continue to maintain that the proposed development represents a well-considered design and layout that responds appropriately to context and is sympathetic to historic context and the ACA, neighbouring protected structures in terms building height, form and materials. No significant adverse planning impacts or long term environmental effects are predicted arising from the proposed development.

Subject to consideration also of our First Party Appeal relating to the duration of permission, we trust that the Board will see fit to uphold the Council's decision to grant permission for the proposed development. This is appropriate on the grounds that: -

- Site 5 represents an exceptional opportunity to provide a development that will act as a catalyst for the regeneration of O'Connell Street and will result in a radical, empathetic and positive impact upon the social and economic framework of the north inner city.
- Site 5 is located on a prominent site from a citywide perspective.
- Site 5 successfully integrates existing built fabric of architectural and cultural heritage interest with contemporary and innovative design.
- Site 5 complies with the zoning objectives of the site, delivering a vibrant sustainable mixed-use regeneration at a highly accessible, brownfield site in the city centre, while also making a positive architectural contribution in the context of the surrounding conservation area and neighbouring protected structures.
- The Site 5 design approach achieves optimum use of an underutilised site, which has its own inherent constraints. The proposal will contribute to the reinvigoration of this neglected part of the city centre through the creation of a dynamic, high-density mixed-use development.
- The café / restaurant use will ensure that activity is maintained during the day and into the evening / night-time. This will in turn support the local economy in terms of local spending and generation of jobs.
- The office building at upper levels can accommodate a single or multiple tenants which is appropriate in the city centre.
- Site 5 will positively address the new public plaza (primary frontage of café / restaurant units) and activate O'Rahilly Parade (access points to café / restaurant units, delivery hub and office bicycle storage).
- The site is exceptionally well served by high frequency, high capacity bus and rail services. This ensure that Site 5 is entirely suitable for the provision of both residential and hotel uses.

- Site 5, including the Masterplan, has been subject of comprehensive design and environmental assessment, Appropriate Assessment Screening and an Environmental Impact Assessment Report, to ensure that it is representative of sustainable mixed-use development that meets the needs of existing and future generations.
- Through offering a more dynamic office and food & beverage offering in the city centre, Site 5 provides an opportunity in the Dublin City Retail Core to evolve in a mixed-use sustainable manner and create a destination for people to linger, stay, live, shop, work and socialise during the day and at night time.
- A sensitive design approach, the conservation and adaption of buildings of heritage significance, provision of retail, cultural, café / restaurant and office uses, balanced with the reasonable protection of the architectural and civic character of the surrounding area, in accordance with the objectives of the current Dublin City Development Plan and the proper planning and development of the area.
- Has due regard to the sensitivities of existing neighbouring properties, in particular residential uses, in respect of potential for overshadowing and overlooking, while still weighing up the practicalities of achieving sustainable brownfield redevelopment in a dense city centre environment.
- Site 5 is consistent with national, regional and local strategic planning policy as expressed in the National Planning Framework, Regional Spatial and Economic Strategy (and Dublin Metropolitan Strategic Plan), the Core Strategy of the Development Plan and all the relevant Ministerial Guidelines, and otherwise with the statutory policies and objectives of the Dublin City Development Plan.

We request that correspondence relating to this appeal be addressed to this office.

**STEPHEN LITTLE & ASSOCIATES**  
27 July 2022